

Attorney's Docket 016955-0307491  
Client Reference: JL218270-003

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re PATENT APPLICATION of  
CHAMBERS

Confirmation No: 4686

Application No.: 10/762,294

Group Art Unit: 3654

Filed: January 23, 2004

Examiner: LANGDON, Evan H.

Title: WINCH

**Commissioner for Patents**  
**P.O. Box 1450**  
**Alexandria, VA 22313-1450**

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**UNDER 37 C.F.R. §1.8**

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**Notice of Appeal**

**Petition for Extension of Time (1 month)**

**Pre-Appeal Brief Request for Review**

PILLSBURY WINTHROP SHAW PITTMAN LLP

  
\_\_\_\_\_  
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Reg. No. 44482

Date: June 28, 2006  
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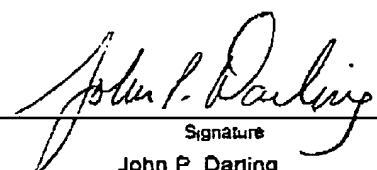
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Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)

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<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number (Optional) 016955-0307491	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]  on _____  Signature _____  Typed or printed name _____		Application Number 10/762,294	Filed January 23, 2004
		First Named Inventor Christopher P. CHAMBERS	
		Art Unit 3654	Examiner Langdon, Evan H.
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.			
This request is being filed with a notice of appeal.			
The review is requested for the reason(s) stated on the attached sheet(s). Note. No more than five (5) pages may be provided.			
I am the			
<input type="checkbox"/>	applicant/inventor.	Signature	
<input type="checkbox"/>	assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/86)	John P. Darling	
<input checked="" type="checkbox"/>	attorney or agent of record. 44482 Registration number _____	703-770-7745 Telephone number	
<input type="checkbox"/>	attorney or agent acting under 37 CFR 1.34 Registration number if acting under 37 CFR 1.34 _____	June 28, 2006 Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.			
<input checked="" type="checkbox"/> Total of 1 forms are submitted			

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Filed: January 23, 2004

Examiner: EVAN LANGDON

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**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22314

Sir:

Further to the Notice of Appeal filed herewith, Applicant respectfully requests review of the rejection of claims 1-5, 7-13 and 17-19 under 35 U.S.C. §102(b) over Bausenbach et al. (U.S. Patent 3,836,123).

The undersigned invites the panel members to review the arguments regarding the unreasonableness of the examiner's interpretation of Bausenbach et al. as it relates to the claimed first and second pivots, and other claimed features, in light of the following facts.

The undersigned conducted an interview with the examiner and the examiner's supervisor in an attempt to advance the prosecution of the application. During the interview, the differences between the claimed invention and the previously applied prior art were discussed and it was agreed that the claims defined over the previously applied prior art. The undersigned also agreed to review certain prior art references, including Bausenbach et al., and amend the claims in light of the references to hopefully avoid further rejections and advance the application to allowance.

The undersigned reviewed the references and presented amendments to claim 1.

In response, the examiner applied Bausenbach et al. as anticipatory against claims 1-5, 7-13 and 17-19.

In the May 30, 2006 Request for Reconsideration, the undersigned traversed the rejection, in particular on the grounds that the examiner's interpretation of the shaft 92 as

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corresponding to the first pivot and the second pivot, wherein the second pivot is spaced from the first pivot.

In addition to that argument, the undersigned also clearly argued Bausenbach et al.'s failure to disclose or suggest a biasing means between the base plate and the second arm. See page 5, lines 3-5, of the May 30, 2006 Request for Reconsideration.

The examiner's Office Action is illustrative of this deficiency of Bausenbach et al. The examiner alleges that the cross brace 22 and the horizontal bar 24 correspond to the claimed base plate. The examiner also alleges that the upper jaw 74 corresponds to the claimed arcuate second arm. The examiner further alleges that the spring 106 corresponds to the claimed biasing means, and that the spring 106 is "between" the upper jaw 74 and the cross brace 22/horizontal bar 24 as explained in column 4, line 62 through column 5, line 12.

In the Advisory Action, the examiner provided no response to this argument.

It is respectfully submitted that there is no reasonable interpretation of the word "between" that includes the arrangement of the spring 106, upper jaw 74, and cross brace 22/horizontal bar 24 of Bausenbach et al.

The standard of anticipation is clearly set forth in MPEP § 2131, which states: "The identical invention must be shown in as complete detail as is contained in the ... claim." (Discussing Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).) It is respectfully submitted that Bausenbach et al. do not show the invention of claim 1 in as complete detail as contained in claim 1.

In addition to the arguments discussed above, the undersigned also clearly argued, on page 5, lines 11-17, that the spring 106 of Bausenbach et al. is clearly not connected to the second arm 74 at a position between the pivot 92 for the lower jaw 76 and the upper jaw 74. The spring 106 is not connected to the jaw 76, even under the most strained interpretation. The spring 106 is also clearly not between the "pivots" of the jaws 74, 76, which under the Examiner's interpretation are the points in parallel planes as seen in Figure 4.


Again, no response to this argument from the examiner in the Advisory Action.

It is respectfully submitted that this application is in condition for allowance. It is further respectfully submitted that in light of Applicant's and undersigned's efforts to advance the prosecution of the application to allowance, the Notice of Panel Decision should either result in an allowance of the application, or a requirement to file an Appeal Brief. Re-opening of the prosecution would only result in an even greater waste of time.

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Respectfully submitted,

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